

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

RICHARD ALLEN COPE,

Plaintiff,

v.

CIVIL ACTION NO. 5:05-cv-01175

CHARLES T. FELTS, et al.,

Defendants.

ORDER

By Standing Order entered on July 21, 2004, and filed in this case on December 23, 2005, this action was referred to United States Magistrate Judge R. Clarke VanDervort for submission of proposed findings and a recommendation (PF&R). Magistrate Judge VanDervort filed his second PF&R on February 27, 2008 [Docket 110].¹ In that filing, the magistrate judge recommended that this Court grant Defendant Rowe's Motion to Dismiss, or in the Alternative, Motion for Summary Judgment [Docket 64], deny Plaintiff's Motion for Temporary Restraining Order and Preliminary Injunction [Docket 82], and deny Plaintiff's Motion for Default Judgment [Docket 86].

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). In addition, failure

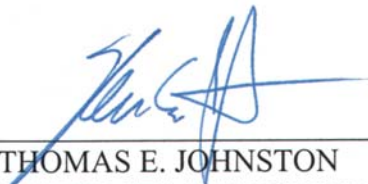
¹ In his first PF&R, dated February 26, 2007 [Docket 62], the magistrate judge recommended denial of Defendants' motion to dismiss, or in the alternative, motion for summary judgment as premature in view of Plaintiff's affidavit filed pursuant to Rule 56(f). The Court adopted that recommendation on March 19, 2007 [Docket 66].

to file timely objections constitutes a waiver of *de novo* review and Plaintiff's right to appeal this Court's Order. *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge VanDervort's PF&R were due by March 14, 2008, pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b). To date, no objections have been filed.²

Having reviewed the PF&R filed by Magistrate Judge VanDervort, the Court **ADOPTS** the recommendations contained therein. Accordingly, the Court hereby **GRANTS** Defendant Rowe's Motion to Dismiss, or in the Alternative, Motion for Summary Judgment [Docket 64], **DISMISSES** him from the case, **DENIES** Plaintiff's Motion for Temporary Restraining Order and Preliminary Injunction [Docket 82], **DENIES** Plaintiff's Motion for Default Judgment [Docket 86], and **REFERS** this matter back to the magistrate judge for further proceedings.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record, Plaintiff, *pro se*, and Magistrate Judge VanDervort.

ENTER: March 18, 2008



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE

² The Court notes that on March 7, 2008, the PF&R was returned to the Clerk's Office as undeliverable. Because Plaintiff has not kept the Court apprised of his address, he has failed to comply with this Court's local rules. *See* LR Civ. P. 83.5 ("A *pro se* party must advise the clerk promptly of any changes in name, address, and telephone number.").